

UNITED STATES OF AMERICA
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554

Docket RM-11753:

Proposed Changes To The Low Power FM (LPFM) Radio Service

*ADDITIONAL REPLY COMMENTS OF DON SCHELLHARDT, ESQUIRE
TO PETE TRI DISH*

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This September 29, 2015 document is a supplement to my Reply Comments of September 28, 2015. In that September 28 document, I identified myself as a longtime activist for Low Power FM (LPFM) Radio. With my friend and colleague Nickolaus Leggett, I co-authored and co-filed the first Petition For Rulemaking to advocate LPFM (Docket RM-0208). Later, I co-founded, and led for 12 years, THE AMHERST ALLIANCE: a Net-based, nationwide citizens' advocacy group for LPFM and other media reforms.

As promised in my September 28 Reply Comments, I am now setting forth a program for breathing new life back into small, independent, locally focused *commercial* radio stations.

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The proposed program has 3 parts, all of which were developed by THE AMHERST ALLIANCE and presented to the Federal Communications Commission within the past few years. The “springboard” for re-presenting the program now was the comment in RM-11753, by PETE TRI DISH, that THE LPFM ADVOCACY GROUP is making a futile effort to bring back “Mom and Pop” commercial efforts.

I *agree* with Pete that LPFM has developed in a way which makes it difficult to impossible to allow LPFM commercials now. For one thing, given the basic purpose of LPFM, commercials would do enormous damage if they made LPFM stations subject to mandatory auctions.

However, I *disagree* with Pete’s view that it is futile to pursue the revival of small, independent, locally focused commercial radio stations. Such radio stations can enjoy a renaissance *without* the difficult task of injecting commercials into an LPFM Radio Service that has matured in a fully non-commercial context.

Here is the 3-point program developed by THE AMHERST ALLIANCE:

1. FCC action: Allow FM translators the choice of airing locally developed program content. In the past, various translators have asked the FCC for this option.

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2. *FCC action, carefully crafted to be permissible under Section 5 (3) of the Local Community Radio Act (LCRA): Sub-divide the nation's Secondary Service Status FM radio stations into a new hierarchy of two Tiers. Tier One, the higher Tier, would contain translators and LPFMs which have a firm commitment to airing a minimum number of hours of locally developed programming each day. Tier Two would contain translators and LPFMs which have not made such a commitment to locally developed program content. In the event of a spectrum shortage, neither a Tier One station nor a Tier Two station could displace a full power FM station (with Primary Service Status). However, a Tier One Secondary station could displace a Tier Two Secondary station -- thus creating a strong incentive for LPFM stations, commercial translators and non-commercial translators to embrace a robust degree of localism.*

As for the specific substance of a station's commitment to locally developed programming, THE AMHERST ALLIANCE has proposed a minimum commitment of 8 hours per day (phased up from 2 hours per day over 2 years). Of course, the details of this standard are less important than whether the standard is strict enough to be challenging but not so strict that it is overpowering.

For more discussion of this matter, please see my RM-11753 Reply Comments of September 28, 2015.

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3. Action by the FCC or Congress: *Exempt Class A stations, and commercial translators, from mandatory license auctions. Add ownership restrictions, including transfer restrictions, to assure that most or all of these exempted stations are locally focused and independently owned.*

It was mandatory license auctions, coupled with the lifting of previous ownership ceilings, that led to the end of most locally focused, independently owned Class A stations. Hopefully, reversing these policies will reverse the negative effects.

Personally, For The Record, I would end all license auctions if I could. I see license auctions as a move to sell off the First Amendment to the highest bidder. Given the present political climate, however, I am presently proposing only the creation of a "Wildlife Preserve" -- where "Mom and Pop" can set up shop among the Class A stations.

The 3-point program I have described is a product of THE AMHERST ALLIANCE. However, I would be happy to see any or all of the program adopted and advocated by anyone and everyone who finds it appealing.

In 2013, I circulated the idea of forming a group to promote small, independent, locally focused commercial radio stations. My efforts were then undone by external developments, including a long period of unexpected hospitalization.

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Should anyone be interested, I will pass along the name I had proposed for this new group:

Federation of Independent Radio Enterprises

FIRE

Respectfully submitted,

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